

APPEAL NO. 020123
FILED FEBRUARY 5, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on November 7, 2001. With respect to the issues before him, the hearing officer resolved that the appellant (claimant) did not sustain a compensable injury on either _____ or _____; that he did not have disability resulting from an injury on either date; that the respondent (carrier) was not relieved from liability for the alleged _____, injury because the claimant timely reported it to his employer; and that the carrier was relieved from liability for the alleged _____, injury because the claimant did not timely report the incident to his employer and did not have good cause for his failure to do so. The claimant appealed on sufficiency grounds and the carrier responded.

DECISION

A timely appeal not having been filed, the decision and order of the hearing officer has become final pursuant to Section 410.169.

Records of the Texas Workers' Compensation Commission (Commission) show that the hearing officer's decision was distributed on November 9, 2001. The claimant alleged to have received the decision on November 27, 2001¹, but is deemed to have received it on November 14, 2001. Under the applicable law governing this case, Section 410.202 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c)), require that an appeal, to be timely, must be filed or mailed not later than the 15th day after the date of receipt of the hearing officer's decision and received by the Commission not later than the 20th day after the date of receipt of the hearing officer's decision. Currently, a party who wishes to appeal the decision and order must file a request for review not later than 15 working days after the date on which such decision is received from the Commission's Division of Hearings, pursuant to Section 410.202, which was amended June 17, 2001, to exclude Saturdays, Sundays, and holidays listed in Section 662.003 of the Government Code in the computation of the 15-day appeal and response periods. Using the current calculation method, the request for review in this case had to be received by the Commission no later than Friday, December 7, 2001. The claimant's request for review was sent and received by the Hearings Division of the Commission via facsimile transmission on January 16, 2001. The claimant's appeal is therefore untimely as it was sent both after the 15-day period and received after the 20th day. In addition, we note that while Commission records show that the claimant received assistance on his appeal from a Commission employee on December 10, 2001, even if the claimant or the Commission employee had forwarded the claimant's request for review on that date, it would have been untimely.

¹Even using this date at the date received, the claimant's appeal is not timely, as the due date for the appeal would have been December 21, 2001.

The appeal being untimely, the jurisdiction of the Appeals Panel was not properly invoked, and the decision and order of the hearing officer have become final under Section 410.169.

The true corporate name of the insurance carrier is **TEXAS BUILDERS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**MR. ROBERT SIDDONS
TEXAS BUILDERS INSURANCE COMPANY
11612 RM2244, BUILDING 1
AUSTIN, TEXAS 78738.**

Terri Kay Oliver
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Robert W. Potts
Appeals Judge